

This would be an unprecedented extension of judicial oversight into foreign intelligence operations. We don't even do this in criminal cases, and my colleague is much more experienced in criminal law than I am. But if we are listening to a Mafia kingpin and he happens to call his son's second grade teacher.

Mr. DANIEL E. LUNGREN of California. Or his sainted mother or his brother, the priest.

Mrs. WILSON of New Mexico. Anybody. And we are not prevented from using that information until we get a warrant on the priest or his mother or his son's second grade teacher. The target is the Mafia kingpin.

This legislation will tie our intelligence community in knots in order to protect the civil liberties of terrorists in foreign countries who are trying to kill Americans.

There are some in this body who may believe we shouldn't have intelligence services. I believe it was Hoover who said that gentlemen shouldn't read each other's mail. Well, we are not dealing with gentlemen here. We are dealing with terrorists who are trying to kill Americans and are using commercial communications to talk to each other. We must do everything we can to prevent that terrorist attack, and that means listening to their conversations if we get an opportunity to do so.

Mr. DANIEL E. LUNGREN of California. I would like to pose this question to the gentlelady. The gentlelady has studied this issue for a long time and was one of the first people to raise certain points of considered alarm, trying to bring a sense of urgency to this House to respond to the threat that is out there.

There is another troubling aspect of the bill to be brought to the floor. It has a sunset of December 31, 2009. So that would suggest to anybody looking from the outside that there is an end game or an end date at which the threat no longer exists. Can the gentlelady give us any advice, considered opinion, as to whether or not this threat is long lasting? Or should we limit this law just to the next 2 years?

Mrs. WILSON of New Mexico. I don't think anybody believes that the threat of Islamic terrorism to the United States, or other foreign threats, are somehow going to go away in the next 18 months. That is just not going to happen. What is even worse about this bill, while they set up some system of blanket warrants with respect to some national security matters, they do not allow any so-called blanket warrants for things that are outside of direct threats to the United States, which is unprecedented in foreign intelligence collection.

That means if we are trying to listen to Hugo Chavez in Venezuela, or we are trying to figure out whether the leader of Sudan is about to launch another wave of genocide in Darfur, or we want to listen in to what the Chinese or the

North Koreans are talking to each other about with respect to the Six-Party Talks and the potential for weapons of mass destruction on the Korean Peninsula, we are absolutely prohibited from listening to those conversations without a warrant from a court in the United States of America. The courts have never been involved in that way. Never in the history of this country, nor should they be. Foreign intelligence collection of foreigners in foreign countries has never been subject to warrants here in the United States.

Mr. DANIEL E. LUNGREN of California. Today I presented two amendments before the Rules Committee for consideration on this floor. Both were denied. One would have expanded the definition of foreign intelligence individuals or states to include nonstate actors who are involved in proliferation of weapons of mass destruction.

The reason I did that is al Qaeda is not a state. There are free actors out there who would attempt to work with nation states or with organizations such as al Qaeda; and technically under the definition currently in the FISA law, they are not covered so that we couldn't do these sorts of things you talk about, listening in on their conversations without warrants, even though they may be as much a threat as a small nation state somewhere. But yet we don't even have an opportunity to discuss that on the floor of the House because that amendment and every other amendment was denied.

Mrs. WILSON of New Mexico. There is historical precedent for this, one of a Pakistani who ran a criminal enterprise, an international network that was selling nuclear materials and the capability to build nuclear weapons to people and countries around the world. While he was Pakistani by nationality and had helped with the Pakistan Government's weapons program, there was no question that he wasn't acting as an agent of Pakistan, at least I don't think there was. He was running a criminal enterprise for money, and we should be able to listen in and track people like that.

Likewise, I think our foreign intelligence should be able to listen to narco-rings in Burma and be able to detect whether there are cocaine smugglers who are trying to ship drugs into the United States.

These are all foreigners who are doing things that we do not like that are not in our interests and our intelligence capabilities should be used to disrupt those things. This law would shut that down. Shut it down. And Admiral McConnell has been very clear on that.

Mr. DANIEL E. LUNGREN of California. Let us return to the protections of Americans.

In the criminal justice system for years and years and years, somewhere between 30 and 50 years, we have done minimization, which means that if you have a wiretap on a Mafia member, and

as I say, he calls his sainted mother or his priest, and the conversation has nothing to do with Mafia activities, that is minimized. That is, it is taken out of the data field and thrown away, essentially. If he says something in that conversation, while not implicating the other person in the conversation that is of benefit to our investigation, that is, he comments he is going to be going to Nashville and that's an important piece of information for us to know, we can use that. If the receiver of the conversation or communication, by what he or she says, indicates activity of an illegal nature such that that person becomes a target, it is at that point we require a warrant for that person.

Similarly, the way the law that we passed in August works is once you have the legal nonwarrant wiretap, or whatever you want to call it, catch of or capture of the communication because the target is a foreigner in a foreign country and you have reason to believe they are involved in some way that is covered under the law, that conversation or communication to someone within the United States is treated in the very same way.

If the conversation has nothing to do with terror, it is minimized. It is thrown out. If the conversation contained some information about the legal target that is of benefit, we can use that information against that target. If in fact the response or the statement made by the person in the United States, the American, is of a nature that gives us cause to believe that person is involved in terror, we then go get a warrant because that person becomes a target. Is that the gentlelady's understanding of how we operate?

Mrs. WILSON of New Mexico. That is exactly how this law works. If the target is an American, you need a warrant. If the target is a foreigner, you don't need a warrant; foreigner in a foreign country.

I think one of the things that is important to remember here, something that has been the greatest accomplishment in the last 6 years in this country has been what has not happened. We have not had another terrorist attack on our soil. And it is not because they haven't tried.

Osama bin Laden and al-Zawahiri have been very clear: they want to kill millions of Americans, and they will do it if they can.

The question is whether we will use the tools at our disposal, entirely constitutional and legal tools, in order to prevent the next terrorist attack, to stop the attack on the USS *Cole*, to prevent the planes from taking off from Heathrow to kill thousands of innocent Americans. Intelligence is the first line of defense in the war on terrorism. It is possible to provide our intelligence community with the tools to keep us safe while protecting the civil liberties of Americans, and that is the perspective that the Democrat majority has lost.